

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DARNELL R. WHITE,)	Case No. 1:20 CR 0227
)	
Defendant-Petitioner,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	
UNITED STATES OF AMERICA)	<u>OPINION & ORDER</u>
)	
Plaintiff-Respondent.)	
)	

On May 10, 2022, the Court issued an opinion and order denying Grounds Two, Three and Four of White's motion to vacate, set aside or correct sentence pursuant to [28 U.S.C. § 2255](#). The Court held Ground one in abeyance and permitted White to supplement his motion with the necessary affidavit or other evidentiary support by May 31, 2022. *See* [ECF Doc. 40](#). However, rather than filing any evidentiary support, White filed a notice of appeal and requested certification of appealability pursuant to [28 U.S.C. § 2253\(c\)](#).

As previously stated, White has not submitted any evidence supporting his Ground One claim—that he asked his attorney to file an appeal, and his attorney failed to do so. Conversely, the Government requested permission to speak with White's trial counsel and now represents that White did *not* ask trial counsel to file an appeal. Because White has not submitted any evidence contradicting his attorney's statement, there is no basis on which to grant him the relief he requests in Ground One. The Court hereby DENIES White's Ground One claim.

Because the filings and records conclusively show White is not entitled to §2255 relief on his motion to vacate, set aside or correct sentence pursuant to [28 U.S.C. § 2255](#), his motion is DENIED in its entirety. Furthermore, pursuant to [28 U.S.C. § 2253\(c\)](#) and [Fed. R. App. P. 22\(b\)](#), there is no basis upon which to issue a certificate of appealability. White's request for a certificate of appealability is also DENIED. *See* [ECF Doc. 42](#).

IT IS SO ORDERED.

Dated: June 1, 2022

s/Dan Aaron Polster

United States District Judge